## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION Criminal No. 7:17-CR-00015-M Civil No. 7:21-CV-00055-M

DAVIN LAMONT SMITH,

Petitioner,

)

V.

UNITED STATES OF AMERICA,

Respondent.

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The court, having examined petitioner's motion pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings, DIRECTS the United States Attorney to file an Answer pursuant to Rule 5 of the Rules Governing § 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 Motion to Vacate, Set Aside or Correct Sentence, within forty (40) days of the filing of this order. In its Answer or response, the Government shall address, inter alia, any issues of timeliness, waiver, or procedural default in accordance with prevailing law.

Within **thirty (30) days** after the Answer or other response is served, Petitioner may file a Reply pursuant to Rule 5(d) of the Rules Governing § 2255 Proceedings. In the Reply, Petitioner shall address all issues raised by the Government in the Answer or response.

SO ORDERED this \_\_\_\_\_\_ day of April, 2021.

RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE